

UNITED STATES DISTRICT COURT  
for the  
EASTERN DISTRICT OF NORTH CAROLINA

**U.S.A. v. James Henry Smith, Jr.**

**Docket No. 4:08-CR-59-1BR**

**Petition for Action on Supervised Release**

COMES NOW Lakesha H. Wright, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of James Henry Smith, Jr., who, upon an earlier plea of guilty to Possession With Intent to Distribute More Than 5 Grams of Cocaine Base (Crack), in violation of 21 U.S.C. § 841(a)(1), and Possession of a Firearm in Furtherance of a Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A), was sentenced by the Honorable W. Earl Britt, Senior U.S. District Judge, on August 3, 2009, to the custody of the Bureau of Prisons for a term of 84 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 5 years. On April 2, 2012, pursuant to the granting of the defendant's motion under 18 U.S.C. § 3582(c)(2), the term of imprisonment was reduced to 77 months.

James Henry Smith, Jr. was released from custody on January 11, 2013, at which time the term of supervised release commenced.

On June 28, 2013, a Petition for Action was submitted to the court advising that a urine specimen collected from Smith on June 4, 2013, tested positive for cocaine. The court was also notified that the defendant admitted to using an ecstasy pill, which was comprised of cocaine, prior to submitting the urine specimen. As sanctions for the violation, Smith's supervised release was modified to include drug aftercare and his participation in a cognitive behavioral program. The defendant was subsequently enrolled in the Moral Reconciliation Program which he ultimately completed on October 21, 2013. Smith was not referred to substance abuse treatment at the time due to the isolated nature of the drug use. Nonetheless, he was enrolled in the Surprise Urinalysis Program on May 7, 2015.

On August 26, 2014, a Violation Report was submitted to the court advising that a routine record check revealed that on August 3, 2014, Smith was charged with Driving While License Revoked (14CR707953), No Liability Insurance (14CR707953), and Expired Registration Card or Tag (14CR707954) in Pitt County, North Carolina. Smith was continued on supervision without modification. The charges were ultimately dismissed.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:**

On February 22, 2016, a urine specimen collected from Smith on February 16, 2016, was determined by the national laboratory to be positive for cocaine. On March 2, 2016, the defendant signed a statement admitting to using cocaine on February 13, 2016. Smith also admitted to the undersigned probation officer that he had used cocaine on weekends prior to February 13, 2016, but he could not recall the specific dates of his use. As sanctions for the violations, it is respectfully recommended that the defendant be ordered to serve 5 days incarceration in the Bureau of Prisons and that he participate in the DROPS Program. Smith signed a Waiver of Hearing agreeing to the proposed modifications of supervision.

**PRAYING THAT THE COURT WILL ORDER** that supervised release be modified as follows:

1. The defendant shall be confined in the custody of the Bureau of Prisons for a period of 5 days, as arranged by the probation office and shall abide by all rules and regulations of the designated facility.
2. While under supervision in the Eastern District of NC, the defendant shall participate in the DROPS Program and, in response to detected illegal drug use, shall be confined in the custody of the Bureau of Prisons for a period not to exceed 30 days of intermittent confinement, as arranged by the probation office, in the following increments: First Use - Two Days; Second Use - Five Days; Third Use - Ten Days. The defendant shall begin at the Second Use level.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing  
is true and correct.

/s/ Dwayne K. Benfield  
Dwayne K. Benfield  
Supervising U.S. Probation Officer

/s/ Lakesha H. Wright  
Lakesha H. Wright  
U.S. Probation Officer  
201 South Evans Street, Room 214  
Greenville, NC 27858-1137  
Phone: 252-830-2348  
Executed On: March 4, 2016

**ORDER OF THE COURT**

Considered and ordered this 7 day of March, 2016 and ordered filed and  
made a part of the records in the above case.

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W. Earl Britt  
Senior U.S. District Judge

